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EXAMINER

FADOK, MARK A

ART UNIT

PAPER NUMBER

3625

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, the examiner has provided a motivation to combine that is found in the Kesling reference that creates motivation to incorporate an order system where the information does not need to be read by the driver thus reducing the inconvenience of the service and preventing accidents thus saving the customer time and increasing the safety of the products usage for the listener.

Applicant argues that the combination of Christensen, Bolleman, Kesling and APA does not teach "when the broadcast media does not include explicit information pertaining to purchase of the goods and services". The examiner disagrees and notes

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that applicant's specification para 0025 notes that "As long as the broadcast media includes identification data such that the broadcast receiver can identify the goods or services to be purchased, the person can simply indicate a desire to purchase..."

Kesling and Patsiokas (incorporated by reference in Kesling) clearly teach the use of an identifier and an indication that provides for sending this information to a server to effect a transaction. This identification code along with the one click methodology for ordering as depicted in Christensen combines to teach the feature "when the broadcast media does not include explicit information pertaining to the purchase of the goods and services".

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "avoiding the need to synchronize any secondary database with the broadcast media".) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).